

AMENDED IN ASSEMBLY SEPTEMBER 5, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 537

Introduced by Assembly Member ~~Calderon~~ Correa

February 18, 2003

~~An act to amend Section 7285 of the Government Code, relating to employment. An act to add Section 354.8 to the Code of Civil Procedure, relating to statutes of limitation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 537, as amended, ~~Calderon~~ Correa. ~~Employment laws: enforcement actions. Statutes of limitations: revival of causes of action.~~

Existing law revives certain causes of action previously time-barred by the statute of limitations, as specified.

This bill would revive certain causes of action to be brought by a resident of this state in the superior court against a bank for unpaid deposits, or an employer for unpaid wages or benefits, in the former country of South Vietnam during April 1975, except as specified.

The bill would also declare that its provisions are severable, as specified.

~~Existing law provides a legislative finding and declaration that all protections, rights, and remedies available under state law, except as prohibited by federal law, are available to individuals regardless of immigration status who have applied for employment, or who are or who have been employed, in this state.~~

~~Existing law also finds and declares that for the purposes of enforcing state labor, employment, civil rights, and employee housing laws, a person's immigration status is irrelevant to the issue of liability and no~~

~~inquiry shall be permitted into a person's immigration status except when necessary to comply with federal immigration law.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 7285 of the Government Code is~~
2 *SECTION 1. Section 354.8 is added to the Code of Civil*
3 *Procedure, to read:*
4 *354.8. (a) Notwithstanding any other provision of law or*
5 *contract, any resident of this state who is a natural person, or an*
6 *heir or successor in interest of such a person, if that person had in*
7 *the former country of South Vietnam during April, 1975, either, (1)*
8 *a deposit in a bank, whether a general deposit, a certificate of*
9 *deposit, or otherwise, or (2) a claim for unpaid salary, wages,*
10 *vacation pay, bonus, pension, or other employment benefits, may*
11 *bring or maintain a cause of action to recover on that claim in the*
12 *superior court for the county in which he or she resides, which*
13 *court shall be deemed the proper forum for that action until its*
14 *completion and resolution.*
15 *(b) Any cause of action brought or maintained pursuant to this*
16 *section is not barred based upon the previously applicable statute*
17 *of limitations, provided the cause of action is filed on or before*
18 *December 31, 2009.*
19 *(c) Nothing in this section may be construed to alter the*
20 *applicable limitations period of an action that is not time barred*
21 *on January 1, 2005.*
22 *(d) The provisions of this section are severable. If any provision*
23 *of this section or its application is held invalid, that invalidity does*
24 *not affect other provisions or applications that can be given effect*
25 *without the invalid provision or application.*
26 *(e) This section does not apply to either of the following:*
27 *(1) Any written compromised settlement agreement that has*
28 *been made between a claimant and the claimant's bank or*
29 *employer, if the claimant was represented by counsel admitted to*
30 *the practice of law in the jurisdiction in which the settlement was*

1 entered into, at the time of the settlement, and who signed the
2 settlement agreement.

3 (2) Any claims against the government of the United States, the
4 Socialist Republic of Vietnam, of the State of California.

5 amended to read:

6 7285. The Legislature finds and declares all of the following:

7 (a) All protections, rights, and remedies available under state
8 law, except any reinstatement remedy prohibited by federal law,
9 are available to all individuals regardless of their immigration
10 status who have applied for employment, or who are or who have
11 been employed, in this state.

12 (b) For purposes of enforcing state labor, employment, civil
13 rights, and employee housing laws, a person's immigration status
14 is irrelevant to the issue of liability, and in proceedings or
15 discovery undertaken to enforce those state laws no inquiry shall
16 be permitted into a person's immigration status except where the
17 person seeking to make the inquiry has shown by clear and
18 convincing evidence that the inquiry is necessary in order to
19 comply with federal immigration law.

20 (c) The provisions of this section are declaratory of existing
21 law.

22 (d) The provisions of this section are severable. If any
23 provision of this section or its application is held invalid, that
24 invalidity shall not affect other provisions or applications that can
25 be given effect without the invalid provision or application.